

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,
Plaintiff

:

:

vs.

:

CRIMINAL NO. 1:CR-01-195-06

:

HARVEY HOLLAND,
Defendant

:

O R D E R

THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:

The Defendant, Harvey Holland, has filed an application to proceed in forma pauperis on his appeal of our denial of his motion pursuant to 28 U.S.C. § 2255. Under Federal Rule of Appellate Procedure 24 (a)(3) the Defendant, "who was determined to be financially unable to obtain an adequate defense in [his] criminal case," is not required to obtain approval from the district court to proceed in forma pauperis on his appeal. However, Rule 24(a)(3)(A) provides that a district court may find that an appeal is not taken in good faith. If the district court finds that an appeal is not in good faith, the Defendant cannot proceed in forma pauperis unless leave is granted by the Court of Appeals. See 28 U.S.C. § 1915(a)(3); Fed.R.App.P. 24(a)(5). Having considered Holland's application to proceed in forma pauperis, we conclude, for the reasons stated in the memorandum accompanying our December 7, 2005, order denying the Defendant's §

2255 motion, that any appeal of our order denying his § 2255 motion would not be in good faith.

AND NOW, this 17th day of January, 2006, it is ordered that Petitioner's application to proceed in forma pauperis (doc. 367) is denied. We further find that any appeal of our December 7, 2005, order denying the Defendant's § 2255 motion would not be taken in good faith.

/s/William W. Caldwell
William W. Caldwell
United States District Judge